

LAW OFFICES OF SPENCER F. SMITH
DOW W. PATTEN, ESQ. Of Counsel (SBN: 135931)
353 Sacramento St., Suite 1120
San Francisco, California 94111
Telephone (415) 520-6950
Facsimile (415) 520-0104

Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NATALYA SHUVALOVA and ELIZABETH
SHUVALOVA,

Plaintiffs,

vs.

JOSEPH RICHARD CUNNINGHAM,
DANIEL CUNNINGHAM, and DOES 1-10,
Inclusive,

Defendants.

CASE NO. CV:10:2159 YGR

**DEFENDANT JOSEPH CUNNINGHAM'S
ANSWER TO THE SECOND AMENDED
COMPLAINT**

ANSWER

I. INTRODUCTION

ANSWER TO COMPLAINT ¶ 1:

Defendant denies the allegation that this action is brought to seek just compensation for a victim of human trafficking. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore also denies them.

ANSWER TO COMPLAINT ¶ 2:

Defendant denies the allegation in the first three sentences of this paragraph. Defendant admits the remaining allegations of this paragraph.

ANSWER TO COMPLAINT ¶ 3:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 4:

Defendant admits this action is brought under TVPRA, state common law, and other provisions of federal and state law. Defendant denies the remaining allegations of this paragraph.

II. JURISDICTION

ANSWER TO COMPLAINT ¶ 5:

This paragraph contains legal assertions or conclusions to which no responsive pleading is required.

ANSWER TO COMPLAINT ¶ 6:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 7:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

III. PARTIES

ANSWER TO COMPLAINT ¶ 8:

Defendant denies all parties were at relevant time's residents of Lake County, California. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

ANSWER TO COMPLAINT ¶ 9:

Defendant admits Joseph is a resident of Lake County. Defendant denies the remaining allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 10:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

ANSWER TO COMPLAINT ¶ 11:

1 Defendant denies the allegations of this paragraph.

2 **IV. FACTUAL ALLEGATIONS**

3 **ANSWER TO COMPLAINT ¶ 12:**

4 Defendant admits the allegations of this paragraph.

5 **ANSWER TO COMPLAINT ¶ 13:**

6 Defendant admits the allegations of the first sentence of the paragraph. The remained of
7 the paragraph contains legal assertions or conclusions to which no responsive pleading is
8 required.

9 **ANSWER TO COMPLAINT ¶ 14:**

10 Defendant denies the allegations of this paragraph.

11 **ANSWER TO COMPLAINT ¶ 15:**

12 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
13 allegations in the first four sentences of this paragraph and therefore denies them. Defendant
14 denies the allegation in the final sentence of this paragraph.

15 **ANSWER TO COMPLAINT ¶ 16:**

16 Defendant admits that Plaintiffs arrived in California in February 2008 and moved in to
17 2830 Mediros Lane, Clearlake, California. Defendant denies all other allegations of this
18 paragraph.

19 **ANSWER TO COMPLAINT ¶ 17:**

20 Defendant denies the allegations of this paragraph.

21 **ANSWER TO COMPLAINT ¶ 18:**

22 Defendant denies the allegations of this paragraph.

23 **ANSWER TO COMPLAINT ¶ 19:**

24 Defendant denies the allegations of this paragraph.

25 **ANSWER TO COMPLAINT ¶ 20:**

26 Defendant denies the allegations of this Paragraph.

27 **ANSWER TO COMPLAINT ¶ 21:**

1 Defendant denies the allegations of this Paragraph.

2 **ANSWER TO COMPLAINT ¶ 22:**

3 Defendant denies the allegations of this Paragraph.

4 **ANSWER TO COMPLAINT ¶ 23:**

5 Defendant denies the allegations of this Paragraph.

6 **ANSWER TO COMPLAINT ¶ 24:**

7 Defendant denies the allegations of this Paragraph.

8 **ANSWER TO COMPLAINT ¶ 25:**

9 Defendant denies the allegations of this Paragraph.

10 **ANSWER TO COMPLAINT ¶ 26:**

11 Defendant denies the allegations of this Paragraph.

12 **ANSWER TO COMPLAINT ¶ 27:**

13 Defendant denies the allegations of this Paragraph.

14 **ANSWER TO COMPLAINT ¶ 28:**

15 Defendant denies the allegations of this Paragraph.

16 **ANSWER TO COMPLAINT ¶ 29:**

17 Defendant denies the allegations of this Paragraph.

18 **ANSWER TO COMPLAINT ¶ 30:**

19 Defendant denies the allegations of this Paragraph.

20 **ANSWER TO COMPLAINT ¶ 31:**

21 Defendant denies the allegations of this Paragraph.

22 **ANSWER TO COMPLAINT ¶ 32:**

23 Defendant denies the allegations of this Paragraph.

24 **V. CLAIMS FOR RELIEF**

25 **FIRST CLAIM FOR RELIEF**

26 **ANSWER TO COMPLAINT ¶ 33:**

27 Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 34:

This paragraph contains legal assertions or conclusions to which no responsive pleading is required.

ANSWER TO COMPLAINT ¶ 35:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 36:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 37:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 38:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 39:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 40:

Defendant denies the allegations of this Paragraph.

SECOND CLAIM FOR RELIEF

ANSWER TO COMPLAINT ¶ 41-45:

This claim has been dismissed pursuant to the Court's order of September 19, 2011.

THIRD CLAIM FOR RELIEF

ANSWER TO COMPLAINT ¶ 46:

Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 46 [sic]:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 47:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 48:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 49:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 50:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 51:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 52:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 53:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 54:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 55:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 56:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 57:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 58:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 59:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 60:

Defendant denies the allegations of this Paragraph.

FOURTH CLAIM FOR RELIEF

ANSWER TO COMPLAINT ¶ 61:

Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 62:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 63:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 64:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 65:

Defendant denies the allegations of this Paragraph.

SIXTH CLAIM FOR RELIEF [SIC]

ANSWER TO COMPLAINT ¶ 66:

Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 67:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 68:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 69:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 70:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 71:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 72:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 73:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 74:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 75:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 76:

Defendant denies the allegations of this Paragraph.

TWELFTH CLAIM FOR RELIEF [SIC]

ANSWER TO COMPLAINT ¶¶ 77 -89:

This claim has been dismissed pursuant to the Court's order of September 19, 2011.

SEVENTEENTH CLAIM FOR RELIEF [SIC]

ANSWER TO COMPLAINT ¶ 90:

Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 91:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 92:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 93:

This paragraph contains legal assertions or conclusions to which no responsive pleading is required.

ANSWER TO COMPLAINT ¶ 94:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 95:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 96:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 97:

Defendant denies the allegations of this Paragraph.

EIGHTEENTH CLAIM FOR RELIEF [SIC]

ANSWER TO COMPLAINT ¶ 98:

Plaintiffs refer to and incorporate their previous allegations, no response is required.

ANSWER TO COMPLAINT ¶ 99:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 100:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 101:

Defendant denies the allegations of this Paragraph.

ANSWER TO COMPLAINT ¶ 102:

Defendant denies the allegations of this Paragraph.

VI. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses to Plaintiffs' First Amended Complaint for Damages:

First Affirmative Defense

The Complaint fails to state a cause of action upon which relief can be granted.

Second Affirmative Defense

The Court lacks subject matter jurisdiction.

Third Affirmative Defense

Plaintiffs' claims are barred by failure to allege fraud with particularity.

Fourth Affirmative Defense

Plaintiffs' claims are barred by the equitable doctrine of unclean hands.

Fifth Affirmative Defense

Plaintiffs' claims are barred because Plaintiffs have engaged in acts and courses of conduct which rendered them in pari delicto.

Sixth Affirmative Defense

Plaintiffs' claims are barred by the equitable doctrines of laches, waiver, and estoppel.

Seventh Affirmative Defense

Plaintiffs' claims are barred by failure of consideration.

Eighth Affirmative Defense

Plaintiffs' claims are barred by the doctrine of unconscionability.

Dated: February 17, 2012

LAW OFFICES OF SPENCER SMITH

/s/ Dow W. Patten

DOW W. PATTEN, Of Counsel
Attorneys for Defendants Joe Cunningham
and Daniel Cunningham